

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In re:

Advanced Television Systems
and Their Impact upon the
Existing Television
Broadcast Service

MM Docket No. 87-268

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ORIGINAL
FILE

To: The Commission

COMMENTS IN SUPPORT OF PETITION FOR RECONSIDERATION

1. The Community Broadcasters Association (CBA) hereby submits these comments in support of the Petition for Reconsideration filed in the above-captioned proceeding on June 17, 1992, by Polar Broadcasting, Inc. et al. (Polar). CBA is the trade association of the nation's low power television (LPTV) stations.

2. CBA supports Polar's petition for reconsideration. LPTV is a significant and growing source of local programming in the television industry and is often the only source of local programming outside major markets and for minority audiences in markets of all sizes. Localism is among the highest public interest values that has been promoted by the Commission throughout the existence of the agency.^{1/} To move television into the 21st century with a new technology and not provide explicitly for LPTV's local service in the process is a self-

^{1/} See "Localism: Tied to the Tracks?" (Remarks of Commissioner Ervin S. Duggan before the Mississippi Association of Broadcasters, June 27, 1992), at pp. 4-5.

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contradictory; it moves television technology forward while leaving the technology's service to the public behind.


3. Neither Polar nor CBA has asked for a change in LPTV's secondary status as an NTSC service, nor has either asked for LPTV to stand as an immovable obstacle to any full power station commencing ATV service that wishes to do so during the initial protected opportunity the Commission is giving it. However, if full power stations leave their channels vacant, there is no reason not to give LPTV broadcasters with an established track record the first opportunity to occupy those channels, so that the public does not lose existing service during the transition to ATV.^{2/} There is also no reason to displace any existing LPTV station unless no alternative exists to establishing a full power ATV service.

4. The Commission has placed a high priority on transitioning from NTSC to ATV and has provided incentives to full power broadcasters to convert by allowing them to occupy

^{2/} It is well established the important principle of Ashbacker Radio Corp. v. FCC, 326 US 327 (1945), does not prevent the Commission from establishing by rule making categories of applicants who are given the first opportunity to apply for newly allotted frequencies. See generally United States v. Storer Broadcasting Co., 351 U.S. 192 (1956) (hearing requirement of 47 U.S.C. 309 does not limit the Commission's power to promulgate rules setting license eligibility criteria). The Commission has done so in setting aside paging and cellular mobile telephone channels for wireline telephone companies, in giving established cellular telephone operators the first opportunity to apply for fill-in-service areas, in giving daytime AM radio broadcasters the first opportunity to apply for fulltime channels in the 1605-1705 kHz band, and of course in allowing full power NTSC TV stations the first opportunity to apply for ATV channels in the Second Report and Order and Further Notice of Proposed Rule Making in this proceeding, FCC 92-174, released May 8, 1992.

NTSC and ATV channels at the same time. LPTV operators should likewise be given incentives to invest capital in the new technology and should be rewarded if they do so by receiving assurances that they will be able to remain on the air.

Respectfully submitted,



D. J. Everett
President

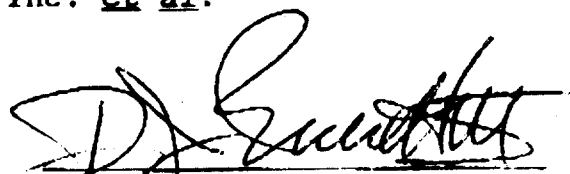
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July 16, 1992

CERTIFICATE OF SERVICE

I, D. J. Everett, do hereby certify that I have, this 16th of July, 1992, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Comments in Support of Petition for Reconsideration" to the following:

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D. J. Everett